

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1963.02
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	October 16, 2002
DATE OF REPORT:	November 14, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	January 31, 2003

COMPLAINT ISSUES:

Whether the Silvercrest Children's Developmental Center violated:

511 IAC 7-27-7(a), failing to implement the student's Individualized education program (IEP) as written, specifically,

511 IAC 7-27-4(a)(3) by failing to convene a case conference committee (CCC) meeting upon the request of the parents.

FINDINGS OF FACT:

1. The student is eight years old and qualifies for special education and related services under the category of autism spectrum disorder with communication disability and mild mental disability. The student attends a residential education center for more severely handicapped children that typically serves students for one year prior to students returning to their home schools.
2. The Complainant asserts that the Student's current IEP, dated May 24, 2002, has not been addressed as written, specifically, by not using a picture communication system (the communication system) during mealtime and in the classroom. The IEP states that the Student is to carry the communication system himself at all times and in all settings. The communication system is mounted on the lunchroom wall, but the Student currently uses it only on a limited basis, only for items related to preferred food at mealtime, and to request favorite activities. The School has charted use of the communication system throughout school settings.
3. The Complainant asserts that the Student is not toilet trained yet, but should be spending most of the day in training pants without diapers. Toilet training procedures in the IEP provide for short periods during the day when the Student wears underpants only, with the remainder of the day wearing underpants with diapers over the pants. Then to gradually increase the numbers of short periods he wears only underpants, upon the discretion of the staff, as he begins to void in the toilet. The charting of toilet training indicated the Student's current level of functioning is to have frequent accidents during the day, and to not consistently void daily in the toilet.
4. The Complainant asserts that the class size of 8 students to one teacher and one aide exceeds both the IEP requirements, and the ratio of 6 students to two adults they had anticipated. The IEP does not address class size or student-to-staff ratio.

5. The Complainant asserts that the IEP states the Student will have significant 1-to-1 instruction. The IEP present level of performance describes certain skills as only demonstrated in a 1-to-1 setting, but the IEP does not provide for instruction or activities in a 1-to-1 setting.
6. The Complainant left a phone message for the special education supervisor (the Supervisor) to call her, and the Teacher returned the call while the Supervisor was on vacation. Upon her return, the Supervisor phoned the Complainant the next school day, October 15, 2002, and they discussed an incident that occurred in the classroom while the Supervisor was on vacation. The Director reported that he also spoke with the Complainant on October 15, 2002, but neither the Supervisor nor Director received a request, verbal or written, for a CCC meeting from the Complainant. No documentation could be provided to show the Complainant requested a CCC meeting.

CONCLUSIONS:

1. Finding of Fact # 2 indicates that the School has complied with the IEP, dated May 24, 2002, requirements to provide the student access to the communication system in the lunchroom during mealtime and in the classroom. Therefore, no violation of 511 IAC 7-27-7(a) is found, with regard to use of the communication system in the lunchroom and in the classroom.
2. Finding of Fact # 3 indicates that the School is complying with the discretionary IEP procedures for toilet training using progressive steps based on the Student's functioning, with documentation of progress by charting. Therefore, no violation of 511 IAC 7-27-7(a) is found, with regard to procedures for wearing diapers while toilet training.
3. Finding of Fact # 4 indicates that the School is not required by the Student's IEP to maintain a certain class size, or student-to-staff ratio. Therefore, with regard to class size, no violation of 511 IAC 7-27-7(a) is found.
4. Finding of Fact # 5 indicates that the School's evaluation of the Student's present level of performance for some skills was based on evaluations/assessments of skills in a 1-to-1 setting. This does not require that the School provide 1-to-1 instruction, and the IEP does not provide for 1-to-1 instructional accommodations. Therefore, no violation of 511 IAC 7-27-7(a) is found.
5. Finding of Fact #6 indicates that the Teacher, Supervisor, and Director discussed educational concerns, but in the absence of documentation that the Complainant made a request to convene the CCC, no violation of 511 IAC 7-27-4(a)(3) is found.

The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.